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11 *Spigen Korea Co., Ltd. and Spigen, Inc.*

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 SPIGEN KOREA CO., LTD., a Republic
15 of Korea corporation; SPIGEN, INC., a
16 California corporation,

17 Plaintiffs,

18 v.

19 ZEUS GROUP, INC., a California
20 corporation; LIDA MAHMOUDE, an
21 individual; NICLAS INGEMARSSON,
22 an individual; CHRISTIAN FOUBERT,
23 an individual; DOES 1 through 10,
24 inclusive,

25 Defendants.

CASE No.:

PLAINTIFFS' COMPLAINT FOR
1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT; AND
3. PATENT INFRINGEMENT

JURY TRIAL DEMANDED

26 Plaintiffs SPIGEN KOREA CO., LTD. and SPIGEN, INC. ("Plaintiffs"), for
27 their Complaint against Defendants ZEUS GROUP, INC., LIDA MAHMOUDE,
28 NICLAS INGEMARSSON, and CHRISTIAN FOUBERT ("Defendants"), allege as
follows:

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C. § 101 *et seq.* and the patent laws of the United States, Title 35, United States Code;

2. This Court has federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) and (b).

3. This Court has personal jurisdiction over all the Defendants by virtue of their transacting, doing, and soliciting business in this District, and because a substantial part of the relevant events occurred in this District.

4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), 1391(c), 1391(d), and/or 1400(b).

PARTIES

5. Plaintiff, SPIGEN KOREA CO., LTD., is a corporation organized and existing under the laws of Republic of Korea, with its principal place of business at 371-37 Kasandong, STX V-Tower #1709, Geumcheon-gu, Seoul, Republic Of Korea.

6. Plaintiff, SPIGEN, INC., is a corporation organized and existing under the laws of the State of California, with its principal place of business at 9838 Research Dr., Irvine, CA 92618. SPIGEN, INC. is a wholly-owned subsidiary of SPIGEN KOREA CO., LTD. Hereinafter, SPIGEN KOREA CO., LTD. and SPIGEN, INC. are collectively referred to as “SPIGEN” or “Plaintiff”.

7. Plaintiff is informed and believes, and thereon alleges, that defendant, ZEUS GROUP, INC. (“ZEUS”) is a California corporation organized and existing under the laws of the State of California, with its place of business at 3728 W Warner Ave., Santa Ana, CA 92704.

8. Plaintiff is informed and believes, and thereon alleges, that defendant LIDA MAHMOUDE (“MAHMOUDE”) is an individual with address of 2239 S Huron Dr., Santa Ana, CA 92704.

9. Plaintiff is informed and believes, and thereon alleges, that defendant

1 NICLAS INGEMARSSON (“INGEMARSSON”) is an individual with address of
2 Svalvagen 18, Segeltorp, Sweden 14172.

3 10. Plaintiff is informed and believes, and thereon alleges, that defendant
4 CHRISTIAN FOUBERT (“FOUBERT”) is an individual with address of 407
5 Troycott Pl, Cary, NC 27519. Hereinafter, ZEUS, MAHMOUDE, INGEMARSSON
6 and INGEMARSSON are collectively referred to as “Defendants”.

7 11. Plaintiff is unaware of the true names and capacities, whether
8 individual, corporate, or otherwise, of the Defendants named herein as Does 1
9 through 10, inclusive, but is informed and believes, and thereon alleges, that each of
10 the fictitiously named defendants engaged in, or is in some manner responsible for,
11 the wrongful conduct alleged herein. Plaintiff therefore sues these defendants by
12 such fictitious names and will amend this complaint to state their true names and
13 capacities when such names have been discovered.

14 **FACTS COMMON TO ALL CLAIMS**

15 12. Plaintiff is a leading manufacturer and seller of cell phone cases and is
16 well known for its quality products.

17 13. Plaintiff owns an original two-dimensional artwork used for purposes of
18 cell phone case design entitled “Spigen Case Inner Pattern Design” (the “Subject
19 Design”). Plaintiff has obtained a copyright registration for the Subject Design
20 (Copyright Registration No. VA0001933974). *See* Exhibit “A”.

21 14. Plaintiff has applied for design patent applications with the United
22 States Patent and Trademark Office for its cell phone case and obtained design
23 patents of U.S. Patent Nos. D747306 and D741845. Plaintiff is the owner of U.S.
24 Patent Nos. D747306 and D741845. *See* Exhibit “B” for U.S. Patent Nos. D737306
25 and D741845.

26 15. Plaintiff has developed and marketed a case under the brand name
27 “Tough Armor” (hereinafter “Tough Armor case”) and the Tough Armor case bears
28 the Subject Design. *See* Exhibit “C” for Spigen’s Tough Armor case.

1 16. Plaintiff has a trademark registration for the mark “Tough Armor” with
2 the United States Patent and Trademark Office. (Trademark Registration No.
3 4519530).

4 17. Prior to the acts complained of herein, Plaintiff has sold cell phone cases
5 bearing the Subject Design, Tough Armor case and other Spigen cases to numerous
6 parties in the industry.

7 18. Plaintiff is informed and believes and thereon alleges that, following
8 this distribution of the Spigen cases, Defendants ZEUS and MAHMOUDE created,
9 manufactured, caused to be manufactured, imported, distributed, and/or sold cell
10 phone cases bearing a design (hereinafter "Zeox Accused Product") which is
11 identical, or substantially similar, to the Subject Design without Plaintiff's
12 authorization. *See* Exhibit “D”.

13 19. Defendants ZEUS and MAHMOUDE sold and continue to sell the Zeox
14 Accused Product on Amazon.com under the seller name “ZEOX”. *See* Exhibit “D”.

15 20. An image of the Subject Design and an exemplar of the Zeox Accused
16 Product are set forth in Exhibit “E”.

17 21. The Zeox Accused Product is identical to or at least substantially similar
18 to Spigen's Tough Armor case. *See* Exhibit “E”.

19 22. The Zeox Accused Product is so strikingly identical or substantially
20 similar to Spigen's Tough Armor case and bears a design identical to or substantially
21 similar to the Subject Design that the Zeox Accused Product is the result of unlawful
22 and willful copying.

23 23. Plaintiff is informed and believes and thereon alleges that Defendants
24 ZEUS and MAHMOUDE, and each of them, had access to Plaintiffs' Tough Armor
25 case and other Spigen cell phone cases distributed on the market.

26 24. Plaintiff is informed and believes and thereon alleges that, following the
27 distributions of the Spigen cases, Defendants INGEMARSSON and FOUBERT
28 created, manufactured, caused to be manufactured, imported, distributed, and/or sold

1 cell phone cases bearing a design (hereinafter "Primed4u Accused Product") which is
2 identical, or substantially similar, to the Subject Design without Plaintiff's
3 authorization. *See* Exhibit "F".

4 25. Defendants INGEMARSSON and FOUBERT have sold the Primed4u
5 Accused Product on Amazon.com under the seller name "Primed4u". *See* Exhibit
6 "F".

7 26. An image of the Subject Design and an exemplar of the Primed4u
8 Accused Product are set forth in Exhibit "G".

9 27. The primed4u Accused Product is identical to or at least substantially
10 similar to Spigen's Tough Armor case. *See* Exhibit "G".

11 28. The Subject Product is so strikingly identical or substantially similar to
12 Spigen's Tough Armor case and bears a design identical to or substantially similar to
13 the Subject Design that the Primed4u Accused Product is the result of unlawful and
14 willful copying.

15 29. Plaintiff is informed and believes and thereon alleges that Defendants
16 INGEMARSSON and FOUBERT, and each of them, had access to Plaintiffs' Tough
17 Armor case and other Spigen cell phone cases distributed on the market.

18 **FIRST CLAIM FOR RELIEF**

19 (For Copyright Infringements of the Subject Design – against all Defendants)

20 30. Plaintiff incorporates herein by reference all the allegations of
21 paragraphs 1 through 29, inclusive.

22 31. Plaintiff is informed and believes and thereon alleges that Defendants
23 and DOE Defendants had access to Plaintiff's Tough Armor case and other cell
24 phone cases distributed on the market, including access to its Subject Design.

25 32. Plaintiff is informed and believes and thereon alleges that Defendants
26 and DOE Defendants infringed Plaintiff's Subject Design by creating, making and/or
27 developing directly infringing and/or derivative works from the Subject Design
28 and/or by producing, distributing and/or selling cell phone cases bearing a design

1 identical to or substantially similar to the Subject Design. Defendants' design is
2 identical to or at least substantially similar to Plaintiff's Subject Design as shown in
3 Exhibits "E" and "G".

4 33. Due to Defendants and DOE Defendants' acts of infringement, Plaintiff
5 has suffered substantial damages in an amount to be established at trial.

6 34. Due to Defendants and DOE Defendants' acts of infringement, Plaintiff
7 has suffered general and special damages in an amount to be established at trial.

8 35. Due to Defendants and DOE Defendants' acts of copyright infringement
9 as alleged herein, Defendants have obtained profits they would not otherwise have
10 realized but for their infringements of the Subject Design.

11 36. Plaintiff is informed and believes and thereon alleges that the
12 infringements of its Subject Design were willful, reckless, and/or in blatant disregard
13 to its rights as a copyright holder such that a finding of willful copyright
14 infringement is warranted, subjecting Defendants and DOE Defendants to liability
15 for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up
16 to one hundred fifty thousand dollars (\$150,000.00) per infringement.

17 **SECOND CLAIM FOR RELIEF**

18 (For Vicarious and/or Contributory Copyright Infringements of
19 the Subject Design – against all Defendants)

20 37. Plaintiff incorporates herein by reference all the allegations of
21 paragraphs 1 through 36, inclusive.

22 38. Plaintiff is informed and believes and thereon alleges that Defendants
23 and DOE Defendants knowingly induced, participated in, aided and abetted in and
24 profited from the illegal reproduction and/or subsequent sales of the Zeox Accused
25 Product or the Primed4u Accused Product bearing designs identical to or
26 substantially similar to the Subject Design as alleged herein.

27 39. Plaintiff is informed and believes and thereon alleges that Defendants
28 and DOE Defendants are vicariously liable for the infringement alleged herein

1 because they had the right and ability to supervise the infringing conducts and
2 because they had a direct financial interest in the infringing conducts.

3 40. By reason of the Defendants and DOE Defendants' acts of contributory
4 and vicarious infringement as alleged above, Plaintiff has suffered and will continue
5 to suffer substantial damages to its business in an amount to be established at trial, as
6 well as additional general and special damages in an amount to be established at trial.

7 41. Due to Defendants and DOE Defendants' acts of copyright infringement
8 as alleged herein, Defendants and DOE Defendants have obtained direct and indirect
9 profits they would not otherwise have realized but for their infringement of the
10 Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants and
11 DOE Defendants' profits directly and indirectly attributable to the infringement of
12 the Subject Design, in an amount to be established at trial.

13 42. Plaintiff is informed and believes and thereon alleges that Defendants
14 and DOE Defendants have committed acts of copyright infringement, as alleged
15 above, which were willful, intentional and malicious, which further subjects
16 Defendants and DOE Defendants to liability for statutory damages under Section
17 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars
18 (\$150,000) per infringement.

19 **THIRD CLAIM FOR RELIEF**

20 (For Infringement of U.S. Patent No. D737,306 – against all Defendants)

21 43. Plaintiff incorporates herein by reference all the allegations of
22 paragraphs 1 through 42, inclusive.

23 44. Plaintiff is the owner of all right, title, and interest in the U.S. Design
24 Patent No. D737,306 (the “‘306 patent”), entitled “Case for Electronic Devices”,
25 duly and properly issued by the U.S. Patent and Trademark Office on January 12,
26 2016. A copy of the ‘306 patent is attached as Exhibit “B”.

27 45. Defendants have been and/or are directly infringing and/or inducing
28 infringement of and/or contributorily infringing the ‘306 patent by, without

1 Plaintiff's permission, among other things, making, using, offering to sell or selling
2 in the United States, or importing into the United States, products that are covered by
3 the claim of the '306 patent. *See* Exhibits "E" and "G".

4 46. Defendants have profited through infringement of the '306 patent. As a
5 result of Defendants' unlawful infringement of the '306 patent, Plaintiff has suffered
6 and will continue to suffer damages. Plaintiff is entitled to recover from Defendants
7 the damages suffered by Plaintiff as a result of Defendants' unlawful acts.

8 47. Defendants' infringement is, on information and belief, willful, making
9 this an exceptional case, entitling Plaintiff to enhanced damages and reasonable
10 attorney's fees and costs.

11 48. On information and belief, Defendants intend to continue their unlawful
12 infringing activity, and Plaintiff continues to and will continue to suffer irreparable
13 harm — for which there is no adequate remedy at law — from such unlawful
14 infringing activity unless Defendants are enjoined by this Court.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, in consideration of the foregoing, Plaintiff prays for relief as
17 follows:

18 1. For compensatory damages in an amount to be determined upon proof at
19 trial;

20 2. For disgorgement of profits and restoration of amounts by which
21 Defendants were unjustly enriched;

22 3. For an award of all profits of Defendants plus all losses of Plaintiff, in
23 an amount to be determined at trial;

24 4. For an injunctive relief prohibiting Defendants from infringing
25 Plaintiff's copyright in any manner;

26 5. That Defendants, and each of them, account to Plaintiff for their profits
27 and any damages sustained by Plaintiff as a result of the conduct alleged herein;

28 6. For costs of suit including reasonable attorney's fees, as provided by the

1 Copyright law;

2 7. For prejudgment interest as provided by law;

3 8. For a judgment declaring that Defendants have infringed the '306
4 patent;

5 9. For a judgment awarding Plaintiff compensatory damages as a result of
6 Defendants' infringement of the '306 patent, together with interest and costs, and in
7 no event less than a reasonable royalty;

8 10. For a judgment declaring that Defendants' infringement of the '306
9 patent has been willful and deliberate;

10 11. For a judgment awarding Plaintiff treble damages and pre-judgment
11 interest under 35 U.S.C. § 284 as a result of Defendants' willful and deliberate
12 infringement of the '306 patent;

13 12. For a judgment declaring that this case is exceptional and awarding
14 Plaintiff its expenses, costs, and attorney's fees in accordance with 35 U.S.C. §§ 284
15 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;

16 13. For a grant of a permanent injunction pursuant to 35 U.S.C. § 283,
17 enjoining the Defendants from further acts of infringement; and

18 14. For such other and further relief as the Court deems just and proper.
19

20 Dated: January 21, 2016

Respectfully submitted,

21 East West Law Group
22

23 By: /s/ Heedong Chae

24 Heedong Chae
25 Richard Kim
26 Attorneys for Plaintiffs
27 Spigen Korea Co., Ltd. and Spigen,
28 Inc.

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: January 21, 2016

East West Law Group

By: /s/ Heedong Chae

Heedong Chae
Richard Kim
Attorneys for Plaintiffs
Spigen Korea Co., Ltd. and Spigen,
Inc.